

**TOWN OF DAVIE
TOWN COUNCIL AGENDA REPORT**

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director/(954) 797-1101
Prepared by: Annie Feng, Planner II

SUBJECT: Quasi Judicial Hearing: Variance
V 6-1-03, Michael Bryant, 5641 Orange Drive, generally located on the north side of Orange Drive and approximately 145 feet west of SW 56 Avenue.

AFFECTED DISTRICT: District 1/within the Community Redevelopment Agency (CRA) District

TITLE OF AGENDA ITEM:

The petitioner requests variances:

FROM: Section 12-107 (D)(4) of the Town of Davie Land Development Code which requires a landscape buffer of 10' between the commercial property and adjacent properties; **TO:** Reduce the east side buffer to 9'1" and the west side buffer to 9'.

FROM: Section 12-208 (A)(22) of the Town of Davie Land Development Code which requires nine (9) parking spaces for the office building on the subject site; **TO:** Reduce the parking spaces to five (5).

REPORT IN BRIEF:

The subject parcel is 9,000 square feet with 60-foot of frontage on Orange Drive in the B-2 zoning district. The existing two-story building was once used as a computer school on the first floor and a residence on the second floor before the second floor recently burned down. The subject parcel is a legal nonconforming lot in the B-2 district which requires a minimum lot area of 52,500 square feet, minimum lot frontage of 200 feet, and minimum lot depth of 200 feet. The 2,736-square foot building is a legal non-conforming structure that did not meet the current Land Development Code with reference to setbacks, landscaping buffers, and parking requirements. The Land Development Code states that should such non-conforming structure or building be destroyed by any means to an extent of more than 20 percent of its assessed value at the time of destruction, it shall not be reconstructed except in conformity with the current code. Due to the destruction, by fire, of the second floor, more than 2 percent of the assessed value of the structure occurred. The applicant proposes to replace the roof and interior walls so that the entire building can be used as an office since the residential use is no longer a permitted use in the B-2 district under the current code.

The following variances are relevant to the proposed application:

- Variance 1: The property is a legal lot of record and platted. The existing building has a 43'-11" rear setback and 66'-1" front setback. To accommodate 18-foot long parking stalls and a 24-foot wide two-direction driveway, the side setbacks including landscaping for the parking lot are left to nine (9) feet on both sides. The lot frontage and the placement of the existing building create hardships to meet the required landscaping buffers of 10 feet on both sides for the parking lot without demolition of the existing building.
- Variance 2: The subject parcel is 43,500 square feet under the minimum required lot area and 140 feet under the minimum required lot width of 200 feet for a lot in the B-2 district. The size of the lot is too small to accommodate a 2,736-square foot office building including nine (9) required parking spaces. The Land Development Code requires one parking space for every 300 square feet of the gross floor area of the office, which are nine (9) parking spaces required for the existing building. The applicant is requesting a variance to reduce the required parking spaces to five (5), which is 44 percent waiver of the code requirement. The substantial reduction of the required parking would cause illegal parking on the swale of the street, which could potentially adversely affect Orange Drive. If the applicant demolishes the second floor and restores the first floor of 1,368 square feet for the office use, the provided parking spaces (5) on site will meet the code requirement.

Staff has informed the applicant that a site plan application pursuant to Section 12-369 of the Land Development Code would be required prior to obtaining any building permits.

PREVIOUS ACTIONS: None

CONCURRENCES: At the September 24, 2003 Planning and Zoning Board meeting, the following motions were made:

Variance One: Ms. Lee made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 4-1 with Mr. McLaughlin being opposed.

Variance Two: Ms. Lee made a motion, seconded by Mr. Stevens, to approve. Motion carried 4-1 with Mr. McLaughlin being opposed.

FISCAL IMPACT: N/A

RECOMMENDATION(S): Staff finds that the subject application complete and suitable for transmittal to the Town Council for further consideration.

Attachment(s): Planning Report, Justification letter, Land use map, Subject site map, Aerial, and property survey.

TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation

Application Information

Owner/Petitioner:

Name: Michael A. Bryant
Address: 374 E. Paces Ferry Rd., N.E. #704
City: Atlanta, GA 30305
Phone: (404) 813-7519

Background Information

Date of Notification: September 3, 2003

Number of Notifications: 149 (Noticed at 1,000 feet)

Application History: This item was automatically tabled at the September 10, 2003 Planning and Zoning Board meeting due to lack of a quorum.

Application Request: Variances

1. **FROM:** Section 12-107 (D)(4) of the Town of Davie Land Development Code which requires a landscape buffer of 10' between the commercial property and adjacent properties; **TO:** Reduce the east side buffer to 9'1" and the west side buffer to 9'.
2. **FROM:** Section 12-208 (A)(22) of the Town of Davie Land Development Code which requires nine (9) parking spaces for the office building on the subject site; **TO:** Reduce the parking spaces to five (5).

Address/Location: 5641 Orange Drive/Generally located on the north side of Orange Drive and approximately 145 feet west of SW 56 Avenue.

Future Land Use Plan Designation: Regional Activity Center

Zoning: B-2 (Community Business District)

Existing Use: Vacant building

Proposed Use: Office building

Parcel Size: .2 Acre (9,000 square feet)

	<u>Surrounding Uses:</u>	<u>Surrounding Land Use Plan Designation:</u>
North:	Vacant parcel & car lot	Regional Activity Center
South:	Orange Dr. & Canal	Regional Activity Center
East:	Pool Builders	Regional Activity Center
West:	Davie Auto Dealer	Regional Activity Center

Surrounding Zoning:

North:	B-2, Community Business District
South:	Griffin Corridor District
East:	B-2, Community Business District
West:	B-2, Community Business District

Zoning History

Previous Request on same property:

The Plat, Davie Little Ranches Amended, was approved and recorded in 1952.

Application Details

The subject parcel is 9,000 square feet with 60-foot of frontage on Orange Drive in the B-2 zoning district. The existing two-story building was once used as a computer school on the first floor and a residence on the second floor before the second floor recently burned down. The subject parcel is a legal nonconforming lot in the B-2 district which requires a minimum lot area of 52,500 square feet, minimum lot frontage of 200 feet, and minimum lot depth of 200 feet. The 2,736-square foot building is a legal non-conforming structure that did not meet the current Land Development Code with reference to setbacks, landscaping buffers, and parking requirements. The Land Development Code states that should such non-conforming structure or building be destroyed by any means to an extent of more than 20 percent of its assessed value at the time of destruction, it shall not be reconstructed except in conformity with the current code. Therefore, the applicant is requesting variances to restore the entire building as an office. Due to the destruction, by fire, of the second floor, more than 20 percent of the assessed value of the structure occurred.

Applicable Codes and Ordinances

1. Section 12-107 (D)(4) of the Town of Davie Land Development Code that requires a landscape buffer of 10' between the commercial property and adjacent properties.
2. Section 12-208 (A)(22) of the Town of Davie Land Development Code that requires ten(10) parking spaces for the office building on the subject site.

3. Section 12-340 of the Town of Davie Land Development Code that provides development review requirements. The subject site is within the CRA district and subject to review by CRA.
4. Section 12-309 that provides review criteria for variances.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 8. This Planning Area is the heart of Davie and is the most diverse, characterized by older, small-scale commercial development, older single-family residential neighborhoods, and newer, large-scale multi-family residential developments that serve the rapidly growing South Florida Education Center (SFEC). It is bounded on the north by Nova Drive, south by Orange Drive, east by Florida's Turnpike, and west by University Drive. The planning area encompasses the downtown Davie Business District, where western theme architecture is required, the Davie Town Hall and Rodeo Arena, two large mobile home communities, and industrial land.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 98.

Applicable Goals, Objectives and Policies:

Policy 7-1: The Town shall endeavor to expand its economic base through expansion of the commercial sector of the economy.

Policy 7-3: Zoning regulations shall provide for varying intensities of commercial development and direct application of appropriate districts where compatible with adjacent and surrounding residential uses.

Policy 17-1: Lands designated for non-residential use shall be located in a manner which facilitates development, but does not adversely impact existing and designated residential areas.

Staff Analysis

The existing building is a non-conforming structure in the B-2 zoning district. It was once used as a computer school on the first floor and a residence on the second floor that is a non-conforming use under current code in the B-2 zoning district. Since the structure has lost more than 20 percent of its value, it is required to meet the current code regarding landscaping buffer and parking requirements in order to restore the building for an office use. The minimum required setback for the main structures in a B-2 district under the current code is 20 feet. The existing building will keep its legal-nonconforming setbacks as 10' from the east property line and 11'-2" from the west property line since no reconstruction of the walls will be involved.

- **Variance 1:** The subject site is 9,000 square feet in area and has 60-foot of frontage on Orange Drive. The property is a legal lot of record and platted, although under the

current code, the minimum lot size required in the B-2 district is 52,500 square feet and the minimum required lot frontage is 200 feet. The existing building has a 43'-11" rear setback and 66'-1" front setback. To accommodate 18-foot long parking stalls and a 24-foot wide two-direction driveway, the side setbacks including landscaping for the parking lot are left to nine (9) feet on both sides. The lot frontage and the placement of the existing building create hardships to meet the required landscaping buffers of 10 feet on both sides for the parking lot without demolition of the existing building.

- Variance 2: The subject site is 43,500 square feet under the minimum required lot area and 140 feet under the minimum required lot width of 200 feet for a lot in the B-2 district. The size of the lot is too small to accommodate a 2,736-square foot office building including nine (9) required parking spaces. The Land Development Code requires one parking space for every 300 square feet of the gross floor area of the office, which are nine (9) parking spaces required for the existing building. The applicant is requesting a variance to reduce the required parking spaces to five (5), which is 44 percent waiver of the code requirement. The substantial reduction of the required parking could potentially cause illegal parking on the swale of the street, which could adversely affect Orange Drive. The first and second floors both consist of 1,368 square feet.

Finding of Facts

Variances:

Section 12-309(B)(1):

The following findings of facts apply to the variance request.

Variance 1:

(a) There is a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district, and that said circumstance or condition is such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought. The alleged hardship is not self-created by persons having an interest in the property.

The subject site is 9,000 square feet in area and has a 60-foot frontage on Orange Drive. It is 43,500 square feet under the minimum required lot area and 140 feet under the minimum required lot width for a lot in the B-2 district. The lot width, lot size and the placement of the existing building create hardships to meet the required minimum landscaping buffers for the parking lot on both sides of the property. The hardship is not self-created.

(b) Granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

Granting of the variance will allow the applicant to keep the existing two-story building. It is the minimum variance to accomplish this purpose without demolition of the building and redesign of the site.

(c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The applicant is requesting to reduce one-foot setback for the parking lot on both sides of the property. The applicant will provide landscaping buffers including hedges and shade trees as required by the Land Development Code within the buffer areas, which will minimize the impact of this variance to the adjacent properties. Granting of this variance will not be injurious to the properties or improvements in the vicinity where the subject property is situated.

Variance 2:

(a) There may not be a special circumstance or condition applying to the land or building for which the variance is sought, which circumstance or condition is peculiar to such land or building and does not apply generally to land or building in the same district, and that said circumstance or condition may not be such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought. The alleged hardship may be self-created by persons having an interest in the property.

The existing two-story building is a non-conforming structure on a legal nonconforming lot. It has lost its legal use on the second floor as a residence and its legal status for the structure since 20 percent of value has been destroyed by the fire. The lot is too small to accommodate a 2,736-square foot office building including nine (9) required parking spaces. If the applicant demolishes the second floor and restore the first floor of 1,368 square feet for the office use, the provided parking spaces (5) on site will meet the code requirement. The alleged hardship may be self-created.

(b) Granting of the variance is not necessary for the reasonable use of the land or building and that the variance as requested is not the minimum variance that will accomplish this purpose.

Denial of the variance will cause demolition of the second floor but the first floor could still be used as an office. The fire has resulted in substantial damage to the second floor and the existing roof. Granting of the variance is not necessary for the reasonable use of the land but only for the building if constructed as it was prior to the fire.

(c) Granting of the requested variances may not be in harmony with the general purpose and intent of this chapter and may be injurious to the neighborhood or otherwise detrimental to the public welfare.

The variance for the reduction of four (4) parking spaces is 44 percent waiver of the code requirement. Granting of this variance would cause illegal parking on the street, which will adversely impact the traffic flow on Orange Drive. Granting of this variance could be injurious to the neighborhood or otherwise detrimental to the public welfare.

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and the Town Council for further consideration.

Planning & Zoning Board Recommendation

At the September 24, 2003 Planning and Zoning Board meeting, the following motions were made:

Variance One: Ms. Lee made a motion, seconded by Vice-Chair Turin, to approve. Motion carried 4-1 with Mr. McLaughlin being opposed.

Variance Two: Ms. Lee made a motion, seconded by Mr. Stevens, to approve. Motion carried 4-1 with Mr. McLaughlin being opposed.

Town Council Actions

Exhibits

Justification letter, Site Survey, Subject Site Map, Land Use Map and Aerial

Prepared by: _____

Reviewed by: _____

Michael A. Bryant

May 27, 2003

Town of Davie
Planning and Zoning Division

Re: 5641 Orange Drive
Davie, Fl

To Whom It May Concern:

I am hereby requesting a variance for the above property as it relates to required parking spaces and plant units.

This property has been in our family for three generations. My father purchased this property in 1969 when it was used as farm land. He personally build the two stories building in 1972. When the building was build he was required to build it so many feet from the street. As time past and many new zoning laws were enacted which allow our neighbors to build closer to the street and up to the property line.

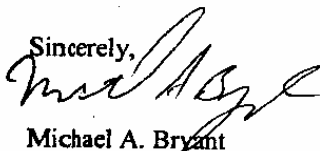
On November 29, 2002, our building incurred an electrical fire, which destroyed part of the second floor and roof. Our intention is not to change anything to the original structure of the building. We would just like to replace the roof and interior walls.

Due to the new zoning laws, we have not been able to make any repairs to the building for 6 months because we have not been able to secure a permit.

Due to the size of the property and the due to fact that we are surrounded on both sides by two other businesses, this zoning requirement would deprive us of reasonable use of the building and the land. This hardship was not created by any person having an interest in the property. Therefore, we asked that a variance be granted.

Thank you for your consideration.

Sincerely,



Michael A. Bryant

1. Reproductions of this drawing are not valid unless signed and sealed with an embossed surveyor's seal
2. Limits shown hereon were not abstracted for right-of-way, easements, ownership or other instruments of record. There may be restrictions that are not reflected hereon, that may be found in the Public Records of Broward County, Florida.
3. The legal description hereon was supplied by the client.
4. No underground foundations, footers or utilities located.
5. Street Address: 5641 Orange Drive, Davie, FL



LOT 27, BLOCK 1, DAVIE LITTLE RANCHES AMENDED, according to the plat thereof, as recorded in Plat Book 28, Page 35 of the Public Records of Broward County, Florida.

CERTIFICATION

I hereby certify to Michael Bryant that the attached Boundary and Topographic Survey is true and correct to the best of my knowledge and belief as surveyed in the field under my direction on March 13, 2003. I further certify that this survey meets the State of Florida Minimum Technical Standards Chapter 61G17-4 F.A.C. There are no above ground encroachments other than those shown herein, subject to the qualifications noted herein.

Robert E. Perry, P.L.S.
Florida Reg. No. 4254

Robert E. Perry, Inc.

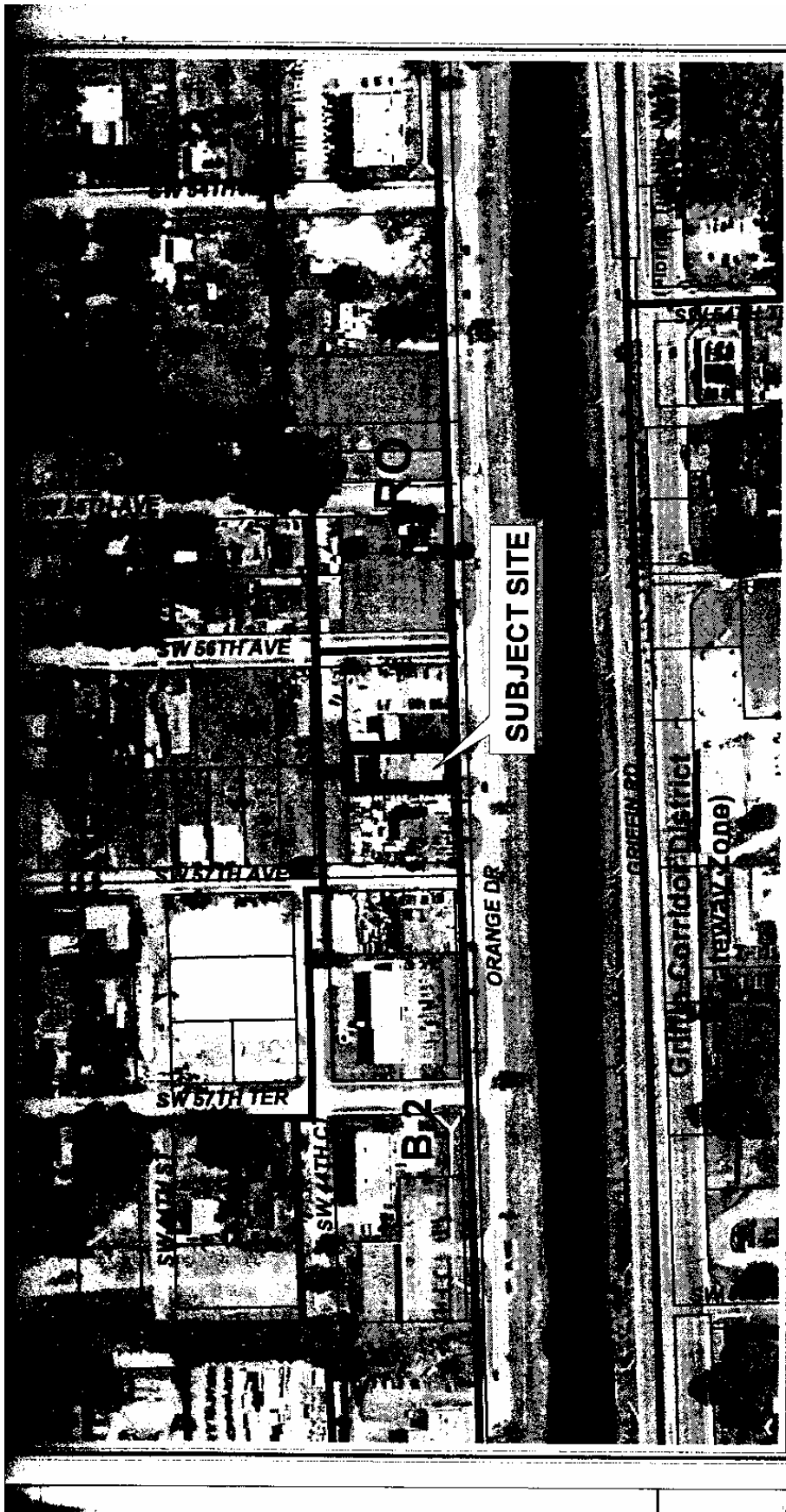
LAND SURVEYORS & PLANNERS

4031 NW 83 AVENUE • LAUDERHILL, FLA. 33351

TELE/FAX 954-742-5841

BOUNDARY & TOPOGRAPHIC SURVEY MARCH 10, 2003

JOB No. 2113



Date Flown:
12/31/01

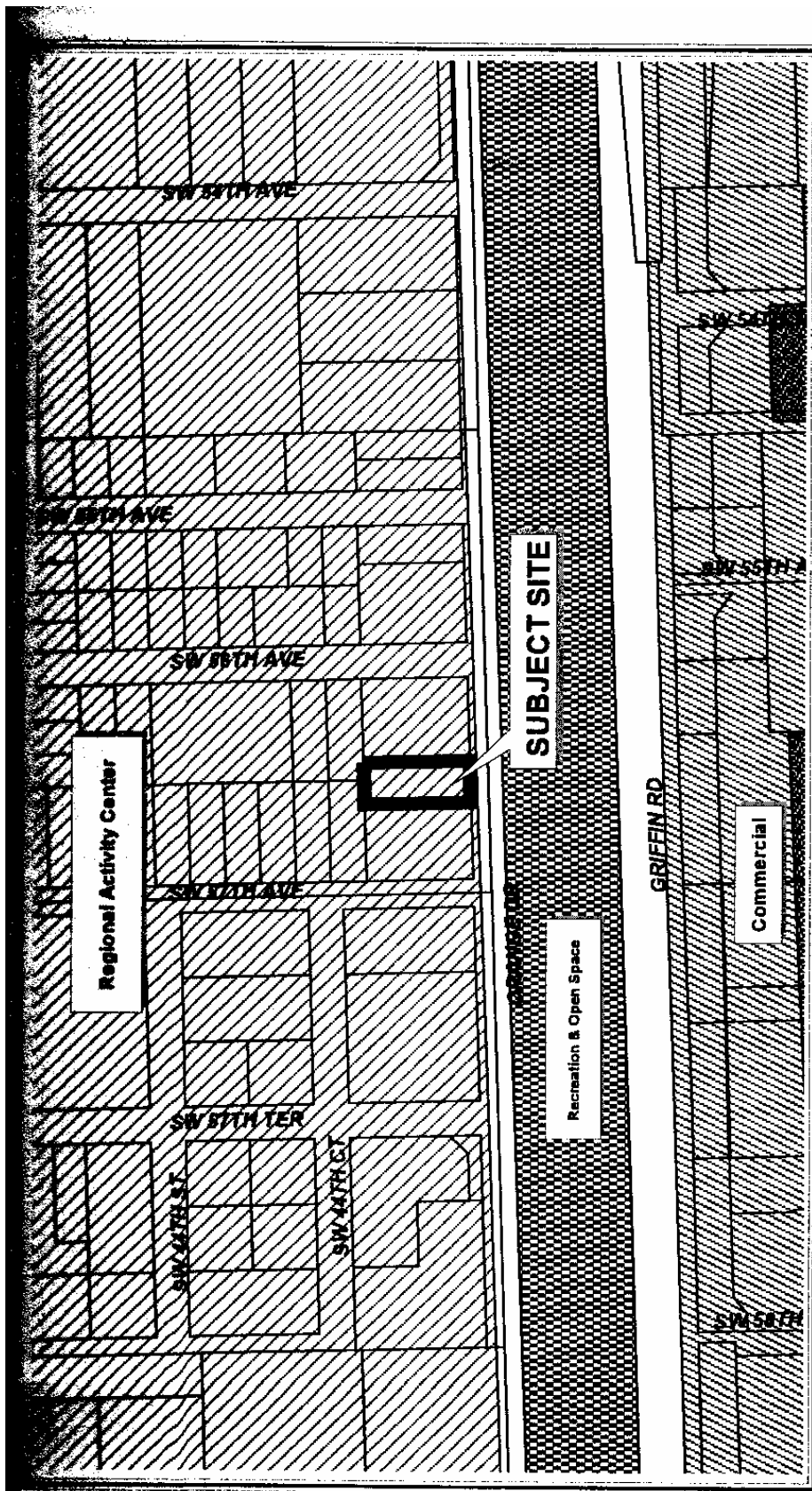


Planning & Zoning Division - GIS



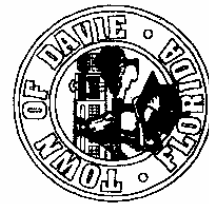
VARIANCE **V 6-1--03** **Zoning and Aerial Map**

Prepared By: ILD
Date Prepared: 8/20/03



VARIANCE
V 6-1-03
Future Land Use Map

Prepared By: ILD
 Date Prepared: 8/20/03



200 0 200 400 Feet

Planning & Zoning Division - GIS